ANNUAL REPORT

APRIL 1ST 1999 - MARCH 31ST 2000

Manitoba's
Children's
Advocate

101-01624/

Annual Report of the Office of the Children's Advocate of Manitoba

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A Message from The Children's Advocate

I am honoured to have this opportunity to present my first annual report as the Children's Advocate. This report has been a collaborative effort within the Office of the Children's Advocate. I would like to thank and recognize the year-round contributions of staff members Mike Bear, Terri Hammerback, Thelma Morrisseau, Jill Perron, Vivian Jack, Brenda Johnson and Shelly Palsson as well as our volunteer, Laura Simpson.

Consistent with the legislative changes that allowed the Office of the Children's Advocate to become an independent office reporting to the Legislative Assembly in 1999, this annual report is the first one to be presented to the Speaker of the Legislative Assembly. In the past, these reports were prepared by the Office of the Children's Advocate and presented to the Minister of Family Services.

The report outlines issues primarily relating to the children and youth involved in the child and family services system. It makes recommendations on ways to improve the initiatives that affect the well-being of these young Manitobans and their families. It also reports on various matters and concerns involving children and youth in Manitoba and beyond. We have also designed this document to serve as an informational tool for Manitobans. It is an open invitation for discussion among all stakeholders. It is a starting point from which we can all build together. I welcome your comments as well as the opportunity to work with you to improve the outlook for Manitoba's children.

Janet Mirwaldt

PART

Defining the Office of the Children's Advocate and What We Do

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What is the Office of the Children's Advocate?

The Office of the Children's Advocate (OCA) was created under the Child and Family Services Act and proclaimed in 1993. The office operated under the umbrella of the Department of Family Services and the Children's Advocate reported to the Minister of Family Services. In 1997, consistent with legislative requirements, an all-party committee was established to conduct a review of the office. In response to recommendations arising from that review, the Office of the Children's Advocate now reports directly to the Legislative Assembly.

On March 15, 1999, the Office of the Children's Advocate joined four other Manitoba offices - the Ombudsman, the Chief Electoral Officer, the Auditor and the Clerk of the Legislative Assembly - in becoming an independent office of the Legislative Assembly. On March 29, 1999, the Lieutenant Governor in Council appointed Janet Mirwaldt, the current Advocate, on the recommendation of the Standing Committee of the Assembly on Privileges and Election.

The Office of the Children's Advocate operates in an arm's length relationship with the child and family services system. It exists to represent the rights, interests and viewpoints of children and youth who are receiving, or entitled to receive, services as prescribed under the Child and Family Services Act and the Adoption Act. The Advocate is empowered to review, investigate and provide recommendations on matters relating to the welfare and interests of these children. The Children's Advocate prepares and submits an annual report to the Speaker of the Legislative Assembly.

Our Mission

The mission of the Office of the Children's Advocate is to advocate on behalf of, and with, children and youth to animate their voices and ensure their rights.

interests and viewpoints are valued, respected and protected. The Office of the Children's Advocate will promote systemic change through collaborative partnerships with children, youth, families and their communities, while focusing on all areas that affect children and youth who are receiving, or are entitled to receive services under the Child and Family Services Act and the Adoption Act. Our advocacy efforts will be child centred, family oriented and anchored in the community. They will be delivered in an ethical, culturally sensitive and respectful manner.

What the Office of the Children's Advocate Can Do

- We can listen to the concerns of children and young people receiving or entitled to receive services as prescribed under the Child and Family Services Act and the Adoption Act.
- We can help members of the public by providing information and self advocacy strategies.
- We can provide information about the child and family services and adoption system in Manitoba.
- We can help individuals say what they want to say to agencies and government departments.
- We can make recommendations to those in positions of authority inside the agencies or government.

What the Office of the Children's Advocate Can Not Do

- We cannot make decisions regarding children in care or overturn an agency decision.
- We cannot intervene in private custody and access matters.
- We cannot intervene in matters outside our mandate.

- We cannot provide child protection services.
- We cannot act as legal counsel for children.

Who Should Contact Us?

- Children and youth who are receiving, or are entitled to receive, services under the Child and Family Services Act and the Adoption Act
- Service providers for the children described above
- Family, friends and community members of the children described above
- Although our primary mandate is to advocate on behalf of the children and youth involved with the child and family services system, we are pleased to field inquiries from children, youth and adults in the general public.

What Happens When Someone Contacts the Office of the Children's Advocate?

The first thing that must be stated is that all calls and contacts to our office are treated as confidential to protect the privacy of the children and families we serve, as well as those who are bringing a concern involving children to our attention. We will not release anyone's name outside our office without their permission. However, like all Manitobans, we are required by law to report, and will report, a child in need of protection pursuant to Section 18 (1) of the Child and Family Services Act.

All staff within the office will provide information to help children, youth and adults advocate on their own behalf. If those who contact us are unable to advocate on their own, an advocacy officer will help them. The majority of service requests come through our general switchboard where office personnel identify the nature of the call. General requests for information are often handled by advocacy staff immediately. At this point the contact ends. All other

contacts are referred to an "Advocacy Assessment Officer" or, on occasion, directly to an Advocacy Officer.

The primary role of the Advocacy Assessment Officer is to receive, assess and assign all requests for case and systemic advocacy services. The officer provides information and mentoring to children, youth, families, natural advocates and community-based organizations who wish, or are able to advocate on their own behalf. We refer to these as Information and Self-Advocacy Assistance cases (ISAA cases). In consultation with the Children's Advocate, the Advocacy Assessment Officer also assesses cases to determine when extended advocacy support and intervention may be required.

If a case falls within the mandate of the office and requires extended advocacy support inclusive of investigations, one of three Advocacy Officers in the office is assigned to work with the individual or group. Under the direction of the Children's Advocate, the Advocacy Officer will review and investigate the issue or concern that has been raised. With the exception of providing legal counsel, the Advocacy Officer will represent the rights, interests and viewpoints of individual children or groups of children who are receiving services, or entitled to receive services, under the Child and Family Services Act and the Adoption Act. The Advocacy Officers conduct investigations and, where possible, provide alternate dispute resolution services that involve contentious service delivery problems. Their first priority is to protect the rights of the child.

Information on the number and types of contacts and cases handled by the Office of the Children's Advocate is covered later in this report beginning on page 25.

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What is Advocacy?

An advocate is someone who speaks on behalf of another individual.

- Where people have their own voice, advocacy means making sure they are heard.
- Where they have difficulty speaking, it means providing help.
- Where they have no voice, it means speaking for them.

Advocates challenge the system. They point out current practices, policies or legislation that are not meeting needs and expectations. Advocates work for change . . . and change is not always easy for people to accept. Advocacy can create tension.

Children especially need advocates. They cannot vote. They live in a world where adults largely make decisions about their lives. They have a voice but they have virtually no legal power to make anyone listen to that voice. Our experiences speaking with children and youth in the child and family services system have shown us they feel they have no say in what happens to them.

Dealing with issues that affect the lives of children and youths creates environments that can be highly complex, volatile and emotional. Our office will not seek out or promote an adversarial approach to advocacy. However, we will speak out on behalf of children. Our goal in the Office of the Children's Advocate is to keep the best interests of an individual child or youth central to the issue that is unfolding around him or her.

We recognize that we are not the sole advocates for children. Building trust, mutual respect and stronger partnerships with Aboriginal communities, family services professionals, government, families and, most importantly, the children and youth involved in the child and family services system, is the way to create lasting change that will improve the lives of young Manitobans.

Effective advocacy is about welcoming people into the decision-making process by ensuring that their voices are heard and considered in the decisions that are made about their lives. There is great power in letting our voices be heard individually and collectively. The combined power, passion, commitment and ideas that Manitobans brought forward to The Sub-Committee of the Standing Committee on Privileges and Elections in 1997 brought about changes to the OCA. We want to continue that process of listening to Manitobans . . . welcoming more partners for child advocacy . . . and animating their voices through reports such as this one.

What Manitobans Told Us Was Important

So what are children and the broader community telling us is important to them? What changes do they want to see? What do they expect from the Advocate's Office? What do they expect from government? And, most importantly, what are children, and specifically those in the care of the state, telling us? A number of major themes emerged this year. People told us that they wanted to move away from an adversarial approach to advocacy. They said an environment that promoted common ground and understanding was in the best interests of children and youth requiring advocacy services. They wanted the office to be sensitive to an individual child's culture and community background as these play an important role in finding effective solutions for Aboriginal and minority children.

Because so many factors affect the welfare of children beyond those covered by child and family services, Manitobans would like to see the mandate of the Office of the Children's Advocate expanded to include all services for children provided by the Manitoba Government.

What Children and Youth Told Us

The Advocate and her staff also spent a great deal of time speaking with children and youth who are receiving services from the child and family services system. A review of the statistics collected by the Office of the Children's Advocate over a six-year period beginning in 1993 showed that under 10 per cent of the calls received by the office had been initiated by children. We thought that number was low and we wanted to know why. These young Manitobans said

- They didn't know who we were.
- They didn't know what we did.
- They didn't know why we existed . . . and that we existed to help them.
- They didn't feel valued. They felt like "just another kid in care".
- There was a predominant feeling among children utilizing child and family services that no one was listening to their needs or giving them a voice in the decision-making processes that affected their individual cases and lives.

When staff from the Office of the Children's Advocate met with one 17 year old, he stated that he didn't have any idea of what our office did or that he could call us for help . . . and this youth had been in the child and family services system for six years.

We also noted that information material on the Office of the Children's Advocate was rarely visible within the child and family services system. Although material on the Children's Advocate existed, we found it posted only in residential care facilities and at two offices that children and youth would rarely or never visit. The Office of the Children's Advocate has made a commitment to provide expanded education and information materials that let children and youth know that they have rights and that we are here to help them

The Children's Advocate recommends that:

It be standard operating procedure for child and family services agencies and regional offices providing services under the Child and Family Services Act and the Adoption Act to supply educational information provided by the Office of the Children's Advocate to every child, youth and family who is receiving services as prescribed under these Acts.

if they need us. Getting this information to every child in the system will require teamwork with service providers.

A Change in Direction for the Office of the Children's Advocate Emerges

As a result of the consultations, the Office of the Children's Advocate has made it a priority to

- Be more accessible to children and youth
- Ensure that all advocacy services and activities conducted by our office keep the child or youth's needs and concerns central to the decision-making processes that affect their lives
- Build skills and capacity in the children, youth and families we serve by helping them find their own voice rather than creating dependency by taking over the advocacy process
- Establish stronger working relationships with children, youth, their families, their communities and their service providers
- Create more advocacy partnerships with Aboriginal children, their families, their communities, and their service providers
- Reach out into more areas of the province
- Be sensitive to, and reflective of, the cultures and communities of the children, youth and families with whom we work
- Shift advocacy from adversarial approaches to a forum that promotes change by welcoming all at the decision-making table.

The Initiatives We Have Put into Place This Year

After listening to what children, youth and Manitobans told us was important to them, we implemented the following changes

- The Office of the Children's Advocate has been restructured to reach out to children and youth and make them aware of our services.
- A new logo for the Office of the Children's Advocate was created with the input of children in and out of care. The child-and-youth-friendly logo is being incorprated into all aspects of the organization and our public education material.
- Two additional sets of public education material have been produced to meet the needs of readers from approximately six to 18 years of age. The material explains some of the rights of children-in-care, outlines the role of our office and invites children to contact us if they need help. This is the first time information has been written for and targeted to the children who might potentially need the services of the Children's Advocate.
- The number of Advocacy Officers has been doubled to provide more efficient services to children, communities and stakeholders.
- There are now advocacy officers who have lived and worked in First Nations communities. This is an important step in ensuring the Office of the Children's Advocate reflects the community we serve.
- We have developed a new report format that goes beyond individual case issues to identify systemic issues, if applicable, so that what we learn in one case can have far greater potential to change the outcome for other children facing the same challenges in the future.
- To be more accessible to children and the public we serve, the office has moved from the 6th floor of a downtown office tower to a ground floor storefront location at 500 Portage Avenue.
- An Open House was held on March 9th, 2000 to officially open the new office, welcome partners for child advocacy, and inform stakeholders and

the public about some of the changes and new directions that are being undertaken through the Office of the Children's Advocate.

A Voice for Children in More Places

We feel it is imperative that the concerns, challenges and frustrations that have been voiced to us by children and youth in the child and family services system are heard in as many places as possible. That is why this year all members of our office have actively sought opportunities to carry the collective voice of these young people's experiences as far outside our office as possible. For change to occur, the voices of these children and youth must be heard around the tables of those who gather to make countless decisions that affect their young lives.

- We consulted with the Department of Justice and the Department of Family Services and Housing on interventions with children under 12 years of age who have committed criminal offenses.
- We consulted with the Department of Justice on criminal court processes involving child witnesses.
- We provided a report outlining Manitoba's perspective on Child Victims in the Criminal Justice System. It was incorporated into a consultation paper submitted by the Canadian Council of Provincial Children's Advocates to the Department of Justice – Canada.
- We reviewed and provided input into the Foster Family Manual for Manitoba Family Services and Housing.
- We provided information regarding the mandate of the Office of the Children's Advocate to Department of Justice officials who were developing Manitoba's portion of Canada's 2nd report on children's rights under the terms of the agreement Canada ratified under The UN Convention on the Rights of the Child.
- We participated in the regional round table on the National Children's Agenda conducted by the Federal-Provincial-Territorial Council of Ministers of Social Policy Renewal.

- We participated in a working meeting regarding Child Death Review and Child Mortality Data Collection co-sponsored by the Child Maltreatment Division of Health Canada and the Saskatchewan Children's Advocate Office.

- We contributed Manitoba's perspective to the submission by the Canadian Council of Provincial Child Advocates in response to the Law Commission of Canada Report entitled "Assessing the Role of Offices of Child Advocacy in Responding to Institutional Child Abuse."

- We provided the discussion paper on "Permanency Planning for Children in Care" for the Canadian Council of Provincial Child Advocates. We continue to work with other provincial Children's Advocates and the Provincial/Territorial Directors of Child Welfare in exploring this very important issue.

- We now sit on the Child Inquest Review Committee.

- We are a community partner in the Social Planning Council of Winnipeg.

- We are a community partner in the Winnipeg Gang Coalition for Healthy Communities.

- We sit on the Provincial Advisory Committee on Child Abuse.

- We consulted on a policy being drafted by the Department of Family Services and Housing regarding the issue of utilizing child and family services staff as foster parents. The issue was raised in the 1997/98 Annual Report of the Office of the Children's Advocate.

- We are maintaining our involvement on the Advisory Council on Voices-Manitoba Youth in Care. This is a group of young people who have lived in the child and family services system. They now advocate for those who remain in the system. Their experiences have provided them with unique perspective on the issues that are shaping the lives of children in the care of the state.

Behind The Statistics

Giving Meaning to the experiences of Young Manitobans and their Families

In this section of the report, we will lay out a number of issues that have been identified as a result of the 920 service requests that were handled by the Office of the Children's Advocate this fiscal year. The types of requests for service we received combined with the experiences of those who contacted us paint a vivid picture of the state of child and family services. As we analyze the events of these children's lives and the circumstances that contributed to making them a part of the statistics in this report, we ask all readers to join us in remembering that behind every number in this section is a child's face. When we talk about statistics, we are talking about children's lives. What is happening to them concerns us all.

Case Statistics for 1999-2000

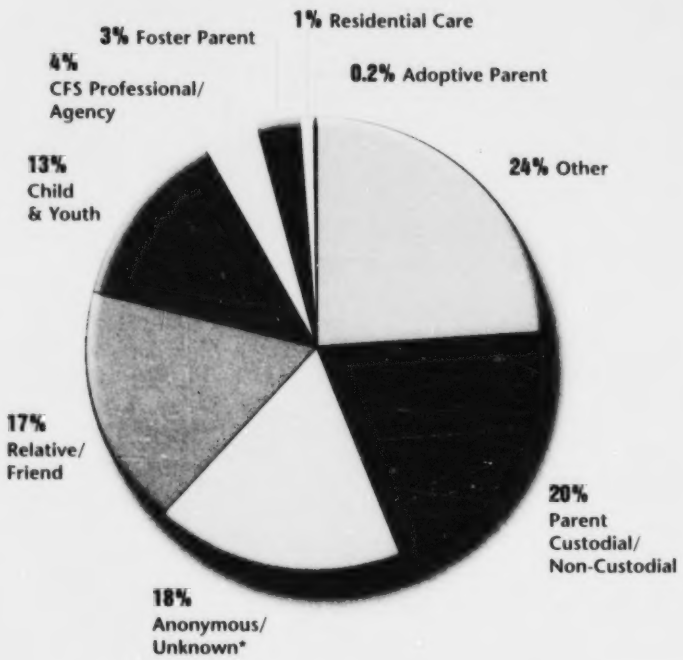
The Number of Requests For Service We Received

	1998-1999	1999-2000
Files open from previous year	91	89
Information & Self-Advocacy Assistance files	353	483
Advocacy Intervention files	439	437
Total files opened	**792**	**920**
Files closed	794	854
Files remaining open at year end	89	155

Many times, files remain open after the case has been resolved to the satisfaction of the child or youth so that the issues raised can be monitored for resolution. We work with child and family services providers to seek solutions that can help alleviate or eliminate the challenge for other children.

Who Contacted Us About Children and Youth in 1999-2000:

The large graphic below represents our total number of cases. (920)

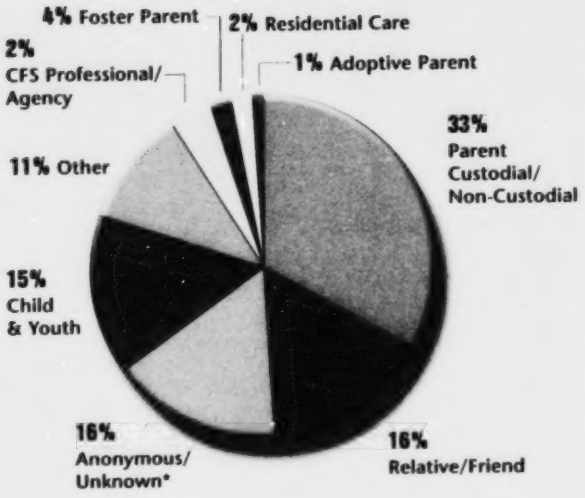


The vast majority of people (87%) still contact us by phone. Less than 4% reach us by mail. Our number of walk-in contacts has tripled.

** People are not required to disclose their identity.*

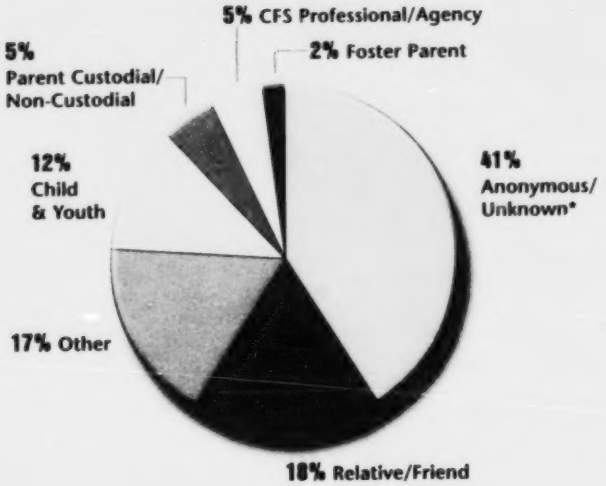
Information and Self-Advocacy Assistance

483 cases



Advocacy Intervention

437 cases



** People are not required to disclose their identity.*

Of concern to the Children's Advocate is the fact that while 16% of those who called for ISAA services chose not to be identified, over 40% of the people who called us to provide advocacy intervention services relating to children did not wish to be identified. When we ask callers why they wish to remain anonymous, a majority tell us they fear retribution. Those receiving services, particularly children, youth, and families, are afraid to speak out on their own behalf. Those providing services to children and families are also concerned that they will be identified and face repercussions for contacting our office.

Information and Self-Advocacy Assistance

What people contacted us about

	1998-1999	1999-2000
CFS Concern Resolved	28	140
Custody/Access	77	105
CFS Information Only	180	92
General Inquiries	16	46
Education	10	29
Out of Scope	8	29
Social Allowances	7	14
Young Offenders Act	10	9
Health	9	7
Adoption	0	7
Child Mental Health	8	5
	353	**483**

While the number of Advocacy Intervention cases remained constant between the 1998-1999 and 1999-2000 fiscal years, the number of Information and Self-Advocacy (ISAA) cases has risen. This year we handled 150 more ISAA cases. We believe the increase can be attributed to the fact that more people

are becoming aware of the services provided by our office, particularly those now provided by the Advocacy Assessment Officer.

In the ISAA category, cases can fall within or outside the OCA mandate.

Information and Self-Advocacy Assistance Cases: Inside Mandate

	1998-1999	1999-2000
CFS Resolved	28	140
CFS Info	180	92
General Inquiries	16	46
Adoptions	0	7
	224	**285**

The addition of the Advocacy Assessment Officer has made it possible to resolve five times the number of cases at point of initial contact this year.

Our work in this area has also made us aware of how few people realize that there are grievance procedures in place in many agencies and regional offices. This information is seemingly kept "internal" to the system. To our knowledge, grievance procedures are not put in written format and provided to clients. We encourage individuals, where appropriate, to use these procedures as this can result in an effective resolution to issues.

The Children's Advocate recommends that:

Each agency and regional office communicate the process for grievances to all who access their services at the onset of involvement with the agency. Grievance procedures should be put into a written format that is clear, concise, accessible and available in appropriate languages. It should be clearly posted and available in every office. Beyond the written word, agencies and regional offices should consider other forms of communication that will provide this information to those who access their services.

Information and Self-Advocacy Assistance Cases: Outside Mandate

	1998-1999	1999-2000
Custody/Access	77	105
Education	10	29
Other	8	29
Social Allowances	7	14
Young Offenders Act	10	9
Health	9	7
Child Mental Health	8	5
	129	**198**

Forty (40) percent of requests for our office's ISAA services are simply out of our mandate, meaning the OCA does not have the authority to act on behalf of the person contacting us for help. Where possible and appropriate, we refer these people to someone who is empowered to meet their specific needs. We record and track the concerns of these Manitobans as they are reflective of issues raised about children in general.

Over half of the calls this year involved adults who came to us to advocate for custody of children or access to children. These Manitobans are telling us

- Allegations of abuse and neglect are not being investigated by the child and family services system.
- Access for non-custodial parents is problematic.
- Children do not have a voice in custody and access matters.

Callers are telling us that their concerns regarding abuse or neglect involving their child are being dismissed by the child and family services (CFS) system as just another allegation brought about by an angry parent. Yet, the Child and

Family Services Act requires that all child protection concerns be immediately investigated and the conclusions of these investigations reported. When OCA staff contact the agency or regional office to ascertain their role in these cases, we are routinely told that the matter is a "private custody/access" case and therefore is not given full investigative weight. Agencies and regional offices often take a hands-off approach particularly if the matter is before the courts or is about to enter the courts.

The submission by the Canadian Council of Provincial Children's Advocates to the Special Joint Committee on Child Custody and Access (March 30, 1998) stated "Precautions need to be taken to ensure all abuse allegations are investigated by child welfare authorities".

The safety of children must be the principle consideration in any intervention. In the event of false allegations, cases can be dismissed. However, the CFS system must investigate all allegations fully and in accordance with the Child and Family Services Act.

Advocacy Intervention

We opened 437 cases that required Advocacy Intervention or investigation. When we open an Advocacy Intervention file, it must fall within our mandate.

The Children and Youth Who Required Advocacy Intervention Services

April 1, 1999 to March 31, 2000

Child's Age Group	Male	Female	Age Group	Total
0 – 2 years	39	20	59	13%
3 – 5 years	23	26	49	11%
6 – 10 years	66	51	117	27%
11 – 12 years	17	21	38	9%
13 – 15 years	40	62	102	23%
16 – 18 years	24	46	70	16%
Outside Age Range	2	0	2	1%
Report Totals	**211**	**226**	**437**	**100%**

Approximately 70% of the children and youth in care are First Nations and Metis children. Fifty-seven (57) per cent of the children we served self-identified as Aboriginal, 17% as Caucasian, 1% as visible minority and 25% chose not to self-identify.

Child's Status in CFS System

April 1, 1999 to March 31, 2000

Status	Number of Cases
No Status	77
VPA (Voluntary Placement Agreement)	36
VSG (Voluntary Surrender of Guardianship)	1
Supervision Order	1
Temporary Ward	58
Permanent Ward	91
Former Ward	5
Apprehension	73
Unknown/Not Disclosed	46
Family Services	41
Other (non-pay care)	8
Total Cases	**437**

Of the children the OCA served, 59% were in the care of the CFS system, 21% were permanent wards, 13% were temporary wards, 8% were under a Voluntary Placement Agreement and 17% were in care under an apprehension status. Eighteen (18) percent of the children we served did not have status, were not in care, and were not receiving services but were entitled to receive services. Nine (9) percent of the children we served were receiving services at home.

Where are these children living when Advocacy Services were Required?

We tracked the number of children living in care vs. the number of children living out of care.

In-care arrangements	No. of Children	Out-of-care arrangements	No. of Children
Foster home (non-relative)	147	With parents/guardians	103
Group home	23	With relatives/friends	53
Foster home (relative)	20	On own	7
Receiving facility	15	Adoptive home	2
Residential facility	12	Hospital	2
Young offenders facility	11	Other – not identified	17
Place of safety	9		
AWOL	7		
Crisis stabilization unit	4		
Hotel	3		
Independent living	2		
Total	**253**	**Total**	**184**
	(58%)		(42%)

A majority of the children and youth we serve were living in care (58%). Of those living in care, the majority were living in non-relative foster homes. The other 42% of the children and youth we served were living at home or in the community.

This year's report will not contain information on the number of times that individual agencies were involved in open cases. Although these statistics are gathered and available in the Office of the Children's Advocate, we believe they are not indicative of service outcome. For example in reporting year 1999-2000, 46% of the children and youth who required advocacy intervention this fiscal

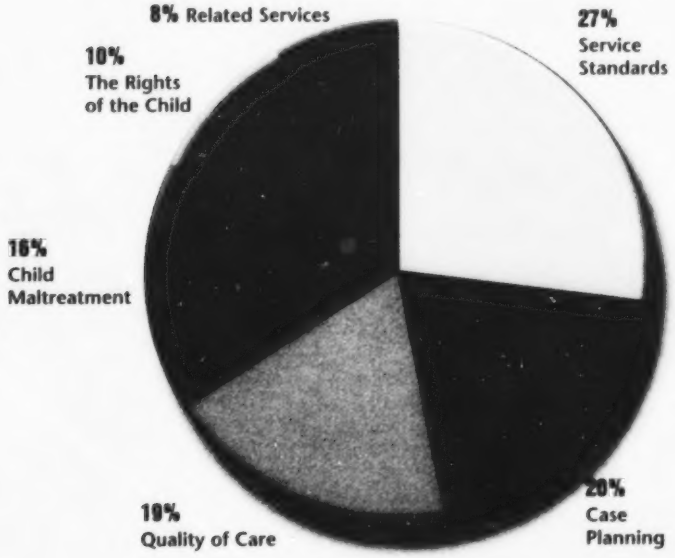
year were involved with Winnipeg Child and Family Services. However, these numbers include children and youth from areas across Manitoba and beyond. The fact that the Office of the Children's Advocate is also located in Winnipeg provides these Manitobans with easier access to our office.

Case Disposition

	1998-1999	1999-2000
Matter resolved	366	311
Matter closed at complainant's request	0	2
Referral to other services	62	44
Lack of contact with/by complainant	9	14
Child reached age of majority	3	0
	440	**371**

Recurrent case themes:

A review of the 437 advocacy intervention cases opened by the Office of the Children's Advocate in 1999-2000 identified a total of 619 concerns. These concerns can be categorized into six areas service standards, case planning, quality of care, child maltreatment, children's rights, and related services.



27% of all concerns involved Service Standards

Disagreements with CFS involvement	59
Refusal of service	32
Worker professional/conduct/practices	29
Access to service/resources	21
Agency non-compliance to service standards	17
Lack of contact by worker	8
Agency requested review of service	2
Total	**168**

Disagreements with CFS involvement

The removal of a child from his or her family is the most intrusive form of agency intervention. It is brought about by an assessment that a child is in need of protection. Adult caregivers in the family often believe intervention is unwarranted. Regardless of how appropriate and necessary this course of action is for the child involved, many families respond to the authority and involvement of child and family services agencies with a combination of anxiety and hostility. This may make cooperation with the agency difficult to achieve. At times, caseworkers respond negatively to the hostility of the parent and lose sight of the feelings of fear, inadequacy and anxiety that underlie these behaviors. This is most often where we see concerns raised about worker conduct. While these reactions may be understandable in human terms, they can aggravate the situation and polarize the position of the parent, and worker. This polarization undermines the potential alliance and can create a power struggle between the parent and the worker that often continues throughout the life of the case, including the court process.

To a large extent, the current child and family services system does not deal effectively with this type of power struggle. Mediation is rarely, if ever, used in

these situations. Many supervisors, if aware of the power struggle, attempt to act as mediators between the worker and the client. Though at times successful, internal mediators are viewed by families as a part of the agency and therefore as part of the problem. When a member of the OCA attempts to work with the parent and the agency, we are often accused of acting as the parent's advocate.

The Children's Advocate recommends that:

The Department of Family Services and Housing consider the introduction of mediation as a viable alternative in dispute resolution and ensure that appropriate funding is available to agencies and regional offices to secure effective mediation in the child and family services system. Mediation should be an option prior to, or as a part of, court proceedings when the power struggle between the caregiver and the agency interferes with the development of a workable and achievable plan that addresses the best interests of the child.

Access to Services - Availability of Services

The OCA has also found that many families we serve are known to agencies prior to intrusive intervention but are either turned away or cannot access appropriate support services or treatment. As one frustrated parent said to us after being repeatedly turned away by an agency, *"Do I have to beat my child before I get services?"*

Caseworkers and families alike have very little control over the availability of services. In 1997-98 Winnipeg Child and Family Services intake units received 15,938 requests from the community for services and opened 7,332 cases. Of these, less than 2,300 files were transferred for ongoing services. Therefore, families had only a one in seven chance of receiving services beyond intake. However, it is important to note that this statistic is consistent with child welfare services across North America

Children in need of treatment

Children wait long periods for treatment services or diagnostic assessments. A child requiring play therapy can wait up to six months before he or she can be seen in Winnipeg. These services are largely unavailable in rural and northern areas of the province. Many families who enter into Voluntary Placement Agreements with agencies because they need assistance in caring for their special needs children are financially contributing to their child's care while the child waits outside the home in a less than ideal situation.

20% of all concerns involved Case Planning

Lack of child specific case planning	59
Lack of permanency planning	36
Access and visitation to a child in care	28
Total	**123**

In a majority of the cases we reviewed, we found child specific case planning, inclusive of treatment planning, was often absent. The same was true for permanency planning. Many children in care experience extended periods where there is no continuity of relationship with major caregivers. These children drift through a large and complex services system largely without a stable and nurturing family. These experiences leave children in "limbo" with conflicting emotions about parental figures, parenting, family relationships, their past and their future. *

Also, a majority of the files we have reviewed fail to comply with minimum case management standards that outline the gathering and recording of case specific information and the completion of child, parent, and family assessments. The Department of Family Services and Housing defines case management standards as the *"minimum level of performance expressed in precise, measurable terms, a mandatory service requirement used as a basis for service review or audit, a concise statement of expectation requiring compliance to clearly defined practice or procedures and resulting in measurable outputs or outcomes."* [1]

Some agencies can trace an individual child or family's involvement in the system back to the first phone call. Others have files that contain as little as one sheet of paper for a youth who has been in the system for a number of years.

*For more information on children in limbo please see Report of the Children in Limbo Task Force of the Sparrow Lake Alliance (1966).

[1] Manitoba Family Services (1991)., Program Standards Manual. p. 1

Children and youth are being taken to doctors by caregivers who have no history of their immunizations, allergies, or predisposition to genetic illnesses. The Manitoba College of Physicians and Surgeons raised this issue with the Department of Family Services and Housing in 1999. The Department responded by restating that case management standards require that a child's medical information be documented on the agency file and be made available to the doctor. The College developed a form that they recommended should be completed by the agency worker and presented to a doctor prior to a medical appointment. The development of the new form may not solve the problem as the information required is the same information that currently is not being documented on files even though it is case standard.

One of the biggest problems is that a unifying case management information system for tracking all the cases that receive services does not exist in this province. Some agencies and regional offices are on the Child and Family Services Information System (CFSIS). Some are not. Some have developed their own case management information system. Some have the technology to electronically record information and track cases. Others have little or no technological aids for workers. The gathering of information on children and youth in the child and family services system is fragmented across Manitoba. In its 1999 report "The UN Convention on the Rights of the Child How Does Canada Measure Up", the Canadian Coalition for the Rights of Children stated, *"Canada needs a standardized and comprehensive data collection about children at all levels of government. Without data that is comparable across time and jurisdictions, it will remain difficult to monitor children's rights and determine necessary interventions."*

The information that a worker gathers will be the basis upon which he or she will assess the needs of the child and family. The assessment should lead to a plan of service intervention. In many of the files we've reviewed , provincial stan-

dards regarding the completion of assessments are rarely met. Family, child specific, and parental capacity assessments are not always completed. As a result, case plans with clearly identifiable goals and objectives are not developed.

Provincial standards are the minimum case requirements. They are not goals to reach in service delivery, yet we have been told that the standards could not be met due to the lack of resources and workers. The Department of Family Services and Housing has undertaken to introduce new standards and is currently field-testing them in different regions of the province. The success of these new standards will largely be dependent upon the department's level of commitment to measuring and adjusting workloads that will allow workers to provide a better quality of services.

A Lack of Permanency Planning

We often see instances where agencies and regional offices have applied to, or received permanent custody orders from the courts without adequately addressing the fundamental question of "Who will be this child's family as he or she grows up?"

Permanency planning is generally defined as

> "The systematic process of carrying out, within a brief time-limited period, a set of goal-directed activities designed to help children live in families that offer a continuity of relationships with nurturing parents or caregivers and the opportunity to establish life long relationships."[2]

The notion of permanency planning is often equated with adoption, yet adoption is rarely an option. In their 1998-99 annual report, Manitoba Family Services listed 3,349 wards of the state. The department report does not break down the number of temporary and permanent wards. It also does not break down permanent wards to identify those eligible and ineligible for adoptions.

[2] Maluccio, A.N & Fein, E. (1983) "Permanency Planning. A Redefinition. Child Welfare, 62(3), p. 195-201.

However, of the 3,349 wards that year, the department reported facilitating 116 selected adoptions. A selected adoption is defined as being when a child is placed for adoption with approved applicants by the director or agency that has permanent guardianship of the child.

The Children's Advocate recommends that:

The Annual Report of the Department of Family Services and Housing publicly document the number of wards by placing them into individual and separate categories that list the number of temporary and permanent wards in care throughout the province, in addition to those wards that are eligible and ineligible for adoption.

What the Children's Advocate is doing to address the issue of permanency planning:

In 1999, the provincial and territorial child welfare directors invited the Canadian Council of Provincial Children's Advocates to enter into discussions regarding the issue of Permanency Planning. The Canadian Council has agreed to enter into discussions, along with youth and Aboriginal organizations to look at this very important issue.

Too Many Moves and Too Many Workers

One of the advocacy interventions cases opened by the Office of the Children's Advocate involved a three-year-old child who had already had nine placements. We have spoken to children and foster parents who have had five social workers in one year.

"When a child is moved, no matter how sensitively or skillfully, the child is exposed to loss and separation. . . . A move usually means a profound disruption in the child's continuity of care."[1]

There are a number of **case factors**, which contribute to a child's move

- The child's behavior is too difficult to handle. He or she may be a danger to others.
- The placement is incapable of handling the child due to
  - inadequate overall supports to the placement
  - a lack of respite or relief support to the placement

[1] "Children in Limbo", a report of the Children in Limbo Task Force of the Sparrow Lake Alliance, published in April 1996, p. 17.

– a lack of caregiver skills regarding the specific challenges associated with the child.

- Placement availability ends through illness, retirement or transience of caregivers.
- The reunification attempt with the biological family has failed.
- Agencies tend to over-estimate the extended family's or foster family's abilities to care for a difficult child. As a result, extended, foster, and even adoptive families may give up and reject a child they had committed to care for permanently.

There are a number of **systemic issues** beyond the control of the caseworker that affect a child and can contribute to their remaining or drifting in a state of limbo, these include

- Agencies and regional offices lack resources to meet the needs of the child.
- The time required to determine if the parents can address their own issues and resume parenting.
- The child cannot tolerate a family setting and residential settings are unavailable or cannot meet the child's needs.
- Lengthy court processes that delay or interfere with planning.
- Agencies and regional offices give insufficient weight to permanency planning.
- The department, regional offices and agencies track recidivism rates insufficiently in client populations. As a result, they do not adequately develop resources to effectively deal with this population. How many children are actually re-admitted to care? How many times does a family re-enter the agency requesting services? These figures are not readily available in Manitoba. However, one American study found that 50% of children entering into child protection services are actually re-admitted into care[4]

[4] Inkelas, M & Halfon, N. (1993). "Recidivism in Child Protection Services". Children & Youth Services Review, Vol. 19, California, USA.

Recidivism rates can be an indicator of service outcome.

When we speak to young people who have left the system, they often describe the one thing that made a difference to them while in care was the quality and longevity of their relationship with a significant adult. In most cases, they listed their social worker or foster parent as this adult. We applaud these people who work at the front lines of the child and family services system. Despite the many systemic challenges, they have not lost sight of the needs of the children and youth they serve.

Better Access between Children and their Families is needed

We have found that policies regarding parental access to children in care vary greatly between agencies. Some agencies have a policy that provides parents only one hour of access per week. Others attempt to provide access across great distances at substantial costs, placing a further burden on the agency to provide adequate services.

Overall, members of the Office of the Children's Advocate have found that access is not typically granted based on the child's attachment needs. As well, access rarely takes place at the foster home or facility in which the child is placed. Access often occurs weekly or bi-monthly for a short period of time in a small office. Clearly such situations are not conducive to parent-child interaction. There is also limited interaction between the substitute caregiver and parent. Access is rarely used as an opportunity to teach and support the parent.

Substitute caregivers have also contacted our office to advocate in situations where they believe that parental access is not in the child's best interests. We have found that access is disruptive if not designed to meet the child's attachment needs. This is particularly important when the children in care are very young. Young children (birth to age four) can only tolerate short periods of separation before they begin to react as if their parents are gone forever. They begin

to develop attachments to their surrogate parents. Each time they are placed in a new foster home or facility, they experience the sense of loss all over again. The process creates a system where parents become psychological strangers to the child and the child is in danger of developing emotional and behavioral problems that ironically will make it difficult for the child to settle in care. That is why a child's relationship with the natural parents, particularly those of a young child in temporary care, must be sufficiently protected.

One routine practice found in the regional offices of the Department of Family Services and Housing and mainstream agencies is to close the family file once a permanent order is received. This is one of the primary concerns we hear from young people who are permanent wards of the agencies and regional offices. These young people want to search out information on their biological parents. The agencies do not feel it is in the best interests of the youth because there are often outstanding protection issues. Yet, these children will often independently search out their biological family, returning to their family and community with or without the agency's blessing.

There is a distinct difference in the way these cases are handled in most First Nations agencies. Biological parents and families still have access to permanent wards in a majority of these agencies. Workers continue to work with biological families wherever possible. In the cases we have reviewed, we have found that reunification of the family is possible even when a permanent order is in place. In these cases, the agency and parents continue to work on the risk factors that made it necessary for the children to come into care. In the past, First Nations agencies have reported being criticized for this practice. However, this practice appears to be successful overall. The Department of Family Services and Housing should research these First Nations agency practices and explore the possibility of replicating these initiatives across the province, if applicable.

The Children's Advocate recommends that:

Agencies and Regional offices develop clear visitation policies based on the child's attachment needs. A visitation plan consistent with the attachment needs of the child should become part of every child's care management plan regardless of whether the child is in care for a number of days or a number of years.

19% of all concerns involved quality of care

Quality care issues in child placement	100
Child is AWOL from care	10
Child alleges abuse while in care	4
Death of child in care	2
Total	**116**

These complaints usually arise when parents and substitute caregivers are not included in the creation and maintenance of the child's care plan. There is no collaboration and cooperation between the natural parent and substitute caregivers. As a result there is little opportunity for a trusting relationship to develop between the two key players in the child's life and this creates conflict. Allegations from parents about the quality of care are often made. Foster parents will claim the parents are disruptive or interfering in the child's care plan. This is a cycle we see continually.

Caregivers have told us there are more children in care who have more complex needs than there were a decade ago. We also see far more instances of caregivers, primarily foster parents, being asked to serve as substitute parents for high-needs children and youth suffering from a range of disabilities such as Fetal Alcohol Syndrome, or children suffering from conduct disorders. Caregivers who take on these challenges require additional skills training and support from the child and family services system. They also require support from a variety of professionals such as child mental health specialists, teachers and daycare workers. Without this involvement, we see cases where caregivers simply can not cope with the demands required to care for these children.
Foster parents have also expressed deep frustration to the OCA because they feel they have made a major commitment to serve as the principle therapeutic agent in a child's life, yet are rarely included in the decision-making process about the child or youth they have in their home.

Most calls that we receive from adolescents about quality of care come from those who live in group care situations. Most often they are calling about the penalties they received for breaking group home rules. They have complained that consequences for infractions are tied to food or monetary incentives (allowances). We have seen cases where young people were "fined" for taking food without permission. Adolescents were not allowed access to food outside of scheduled meal times. Youths complain that their privacy has been invaded. Doors were taken off their bedrooms. Their phone calls were monitored.

Adolescents in independent living programs, those receiving room and board supervised by agencies, and those on social assistance also called about the quality of care. For the most part, they were living in substandard housing with a welfare budget. They had few or no programs to teach them life skills. Many told us they did not know how to cook or to budget the money they were given. Many did not feel safe in the apartments that had been provided for them. Young women were especially concerned about safety.

When the OCA questioned an agency that has a structured independent living program, Winnipeg Child and Family Services, as to why these young people must live on a welfare budget we were told that this is the policy of their agency. When we questioned the reasoning behind the policy, we were told that young people are only given the "welfare budget" as when they leave care they will likely end up on welfare. As one foster parent whose foster child entered into independent living stated, "the Agency moves these children from child welfare to welfare".

The two concerns raised about the deaths of children pertained to the review process as per section 10(1) of the Fatality Inquiries Act.

16% of all concerns involved Child Maltreatment

(Out of care situations)	
General care	47
Allegations of child neglect	30
Allegations of child abuse	25
Total	**102**

In these instances, an agency is involved in providing support services to the family but has not deemed the risk to the child as being great enough to allow them to remove the child. The majority of these calls come from agency or departmental collaterals who provide services to children and youth in the community. These collaterals are working in places like schools, daycares, child guidance clinics, or mental and public health facilities. As required by law, the OCA immediately reports child protection concerns to the proper authorities.

In Manitoba, clear definitions of child abuse are outlined in professional protocols for many of these collaterals. All receive training. However, the criteria used to substantiate allegations of abuse vary among the helping professions. If abuse is suspected and an agency is called, an investigation must take place in order to substantiate the allegation and protect the child. As resources in agencies become limited, the definition of child abuse or neglect is narrowed. Less serious cases are not followed. Others are deemed to be unsubstantiated. Investigations into allegations are often limited to the specific incident in question and the narrow window of time in which it might have taken place. The agency fails to draw in the collateral's history of concerns about the child's treatment within the family. This information could possibly demonstrate a pattern of child maltreatment. It might include the number of times a child appeared with unexplained or inadequately explained bruising, came to school hungry or ill clothed, or was left without adequate supervision in the neighborhood.

In the end, social workers often tell us they have investigated the complaint but could not substantiate the incident. CFS workers document that parents were "spoken to" about the incident and were "warned and cautioned". At times, case workers will ask the collateral who first raised the allegation to monitor the child in case something more serious happens. Collaterals already believe that something serious is happening to this child. They become frustrated by what they perceive to be a lack of response by an agency or regional office. We find that in a majority of these cases the underlying cause for disagreement between the agency or regional office and their collaterals was the definition of and the substantiation of child abuse.

10% of all concerns involved Children's Rights

Child's views not considered in planning	33
Child's rights not respected	27
Legal representation for child	2
Total	**62**

The Office of the Children's Advocate has found that children and youth are rarely included in the planning of their own care. In one meeting that we attended, an adolescent was attempting to make her views known and to have input into her care plan. The social worker in charge of her case turned to her and said, *"Shut up and wait until I'm finished speaking."*

When one 11-year-old was asked what he wanted after being in group care for 3 years, he stated, *"All I want is a mom, a dad and a dog"*. Another young person who had been in foster care for 10 of his 15 years said, *"All I want is a place to call home"*.

Adults fear that children and youth do not know what is in their best interests. Workers are afraid that if they include the child or youth in the process, he or she will request to have access to parents or domestic situations that clearly may not be safe for them. However, most children and youth are able to identify the risk factors that resulted in their coming into care. When asked why they are not living at home, very young verbal children are able to say, *"My Dad hurt me"*... *"My parents drink too much"*..."My Mom couldn't take care of me"*...

Our experiences in the Office of the Children's Advocate have shown that these young people can be a part of planning in a way that does not compromise their safety, provided they are given pertinent information, particularly in the presence of the parents. Like any adult, these children simply need someone to listen to their ideas and include them in the decision-making process.

Furthermore, we have found that the plans that these children and youth provide for their future are largely reasonable, logical and achievable.

We have also advocated for young people who feel their rights have been violated because they are not in agreement with the Voluntary Placement Agreements that now govern their lives. No matter how it is explained, the young person feels as if the parent "signed them away". In many instances, the youth will not be cooperative with a plan that they have had no voice in developing. This process is counter-productive for all involved. We believe that all Voluntary Placement Agreements should provide the child or youth in question with a voice in the process. Without this input, we believe there is a clear violation of a child's right to participation as covered under Article 12 of the United Nations Convention on the Rights of the Child.

The Children's Advocate recommends that:

The Child and Family Services Act and accompanying regulations be amended to ensure that those children over the age of 12, when intellectually capable, be considered a party and signatory to the Voluntary Placement Agreement. When the child does not consent, legal representation should be secured to ensure the child's rights are protected. The matter should proceed through mediation and, if necessary, the courts.

8% of all concerns involved Related Services:

Related Concerns	
Health	16
Education	6
Financial need of family/child	3
Adoption	3
Children with special needs	2
Child mental health	5
Other	13
Total	**48**

The Lack of Integrated Services:

Many of the families who receive services from CFS also receive services from many other agencies or public institutions. The primary issue for a number of families who contacted us concerned child-serving systems outside of the child

and family services agency. We have found in these cases that services for families are not integrated but are offered on a piece-meal basis at times of crisis. Families needing assistance from multiple disciplines must often visit numerous offices and attend meetings with different professionals in attempts to secure services for their children. It is not uncommon for six to 12 "helping professionals" to gather for a collaterals meeting from various departments to discuss a single case. Child and family services workers often tell the OCA that they feel very frustrated in these situations. Case management often falls by default to the CFS workers as they have the 'mandate', the mandate to co-ordinate, arrange and often fund the services and solve the problem. They feel the responsibility never seems to be shared. However, accountability is firmly placed on the backs of child and family services workers. Collaterals often feel that because the agency has the mandate it is logical and at times legally necessary for the responsibility to go to the agency or regional office. This is a confusing system that leads to division and cracks through which children, youth and families fall.

Concerns Regarding Adoptions

This year, the Office of the Children's Advocate received 10 inquiries relating to the new Adoption Act that was proclaimed on March 15, 1999. The new Act was designed to simplify the process and make it easier for parents to adopt a child. It also allowed not-for-profit adoption agencies that met licensing requirements to provide adoption services based on a fee for service model. As a result of the new legislation, adoptive applicants and birth parents are able to choose services from either a licensed adoption agency or a child and family services agency for the adoption of children and youth who are not permanent wards. The adoption of permanent wards is handled by CFS agencies and regional offices.

Our inquiries came from foster parents who were interested in adopting the permanent wards placed with them. Most callers were unaware of the adoption process for permanent wards. None were informed of the availability of financial supports. Some were actively discouraged from pursuing these adoptions. Some wanted to know the process of appeal should the agency determine they couldn't adopt the permanent ward. All those who contacted our office this year about adoptions were looking for accurate information. Many have either not read their Foster Parents Manual, provided by the Department or the licensing Agency, or read it years ago.

In December 1999, the OCA consulted on revisions to the foster parent manual issued by the Department of Family Services and Housing. We were pleased to see that the adoption of permanent wards was included in those revisions. Based on the concerns of the foster parents who contacted our office this year, we also recommended that information be added on the availability of financial assistance to those who adopt permanent wards.

Systemic Issues

Poverty

Our office is continually asked to discuss and identify the problems in the 'system'. Many have been identified throughout this annual report. However, beyond all the situational problems, the root cause of many of these issues is poverty. The link between child maltreatment and poverty is irrefutable. As stated on page 12 of the 1996 report of the Children in Limbo Task Force of the Sparrow Lake Alliance

> *"The general impact of poverty on the well-being of children sets the stage for most children, youth and their families seen in the child welfare system. Factors accompanying poverty include the lack of appropriate prenatal care, higher incidences of mortality, health problems, disabilities, school dropout and inadequate opportunities for recreational, cultural and occupational skill development"*

Manitoba's experience is an example of the link between child maltreatment and poverty. Consider the following facts taken from Poverty in Manitoba *The Manitoba 1999 Child Poverty Report Card*

- More than one in four Manitoba children lives in poverty
- While the overall child poverty rate in Manitoba was 26.6%, it was
    - 36% for visible minorities
    - 40% for children with disabilities, and
    - 64% for aboriginal children.

Children have basic rights in our province, but for one in four children their ability to actualize these rights is impaired by the family's level of poverty. It should therefore come as no surprise that many of these children and their families are now, or will become, involved with the child and family services system.

The lack of adequate housing goes hand in hand with the level of poverty in a community. As reported by the Social Planning Council's 1999 Child Poverty Report Card "families on social assistance are caught in a financial bind as allowances for rent are often less than what they must pay in the market".[5] As a result, families must live in substandard housing. "This situation contributes to poor health in children" and family transiency all of which affect a child's stability in the community and "educational outcomes."[6] Housing in First Nations communities is woefully inadequate and directly affects the health and well-being of children. In one northern community we visited, we were told of a family whose children may have to enter care as the family could not afford the stove piping that would heat their home.

Many who share an expertise in child welfare have long suggested that there should be a formal recognition that poverty and child welfare are connected. These two factors must be linked in government policy. They have recommended that benefits for low-income families be increased and full indexing restored to the Canadian Child Tax Benefit. There should also be a comprehensive policy on child daycare.

The Government of Manitoba's budget for the coming year has promised to remove 15,000 more low income Manitobans from the tax rolls. The provincial budget will also increase the Child Tax Reduction by $50 to sit at $300 per child. Almost $9 million more in childcare funding will be allocated for more subsidized licensed childcare spaces and accommodation for children with disabilities. The $13 million Healthy Child Initiative will concentrate on programs such as parent-child centres, prenatal and early childhood nutrition, nurses in schools, adolescent pregnancy reduction, and fetal alcohol syndrome/fetal alcohol effect prevention.

[5] The Social Planning Council (1999)., The Manitoba 1999 Child Poverty Report Card., Winnipeg, Manitoba., p. 24.

[6] Ibid

First Nations and Metis Children

This spring, two initiatives were announced that have the potential to change the face of child and family services in Manitoba. The signing of a Memorandum of Understanding between the Government of Manitoba and the Manitoba Metis Federation on February 22, 2000, will lead to the creation of a child and family services system for Metis people throughout Manitoba. The provincial agreement with the Assembly of Manitoba Chiefs, representing the southern First Nations, signed on April 27, 2000, would see the delivery of child and family services expanded to First Nations people living off reserve. At present, the agreement would affect five First Nation's agencies that provide services to 35 southern communities.

Service delivery will be affected by resources. On page 536 of the Aboriginal Justice Inquiry Report (1991), it was recommended that "aboriginal and non-aboriginal agencies be provided with sufficient resources to enable them to provide the communities they serve with the full range of direct services and preventative programs mandated under the Child and Family Services Act"

One of the greatest challenges in the coming months will be to determine the exact definition of "sufficient resources". Some members of the Department of Family Services and Housing tell our office that there are more than enough resources in the system to shift existing resources from non-aboriginal to aboriginal agencies. However, our office hears far more comments from those working within the system about how challenged the system is to keep up with existing needs.

In addition, First Nations agencies have the burden of being under-funded when providing services to communities where situations can be highly conflictual.

There are few resources in these communities to deal with alcohol abuse, family conflict and child maltreatment. The sheer volume of need in conjunction with the immensity of many of the cases has already created a situation where First Nations agencies have been forced to narrow service delivery to focus primarily on crisis management. They have little or no human or financial resources left for community-based educational and preventative initiatives that could eventually help to reduce these crisis situations. They must try to provide services that should be provided by the federal government. These services include drug and alcohol counseling, family and marital counseling, child mental health services, suicide prevention, and services to medically fragile children. Directors have told us that their agency is the only available service option for many families in need of help. So the pressures upon these agencies and their staff are constant and immense.

Separate but equal may be an improbable equation without sufficient resources.

Inquiries into the Deaths of Manitoba Children

Under Section 10(1) of the Fatality Inquiries Act, it is a statutory requirement that the Chief Medical Examiner (CME) conduct reviews into the deaths of children and youth known to child and family services. There is currently only one investigator in the CME's office who works on these reviews, commonly referred to as Section 10 Reviews. This position is filled as a secondment from child and family services.

In a review completed by the Department of Family Services and Housing, the author found that about five new cases per month are reported to the OCME that require a Section 10 Review. Each case required an average of 11 days to complete within the current structure. This means that the investigator can complete approximately two of the five cases reported each month, leaving

about 60% pending. As of March 27, 2000, there was a backlog of 110 to 120 cases awaiting review. Unless the current system is restructured, the number of cases pending will continue to grow.

Section 10 Reviews are focused on services provided to the deceased child and his or her family by only one system, the child and family services system. Many systems have an impact upon the lives of children and their families. To focus on one system does not adequately address the many issues that may have affected a child, their family and their community.

This year, the Office of the Children's Advocate and the Office of the Chief Medical Examiner raised this issue with both the Department of Family Services and Housing and Manitoba Justice. Both departments have committed to review the current manner in which Section 10 Reviews are completed.

An Expanded Role for the Office of the Children's Advocate

One of the things members of the Children's Advocate's Office hear most often is the call for an expansion of our mandate. This was one of the ideas that came out of the 1997 Standing Committee Report. Although the report did not recommend that the mandate of the office be expanded, the theme continues to be voiced to Children's Advocate staff by a wide cross section of Manitobans. The reasons why are remarkably simple.

The public perceives that our office advocates for all children, and not solely for those children and youth who are affected by child and family services. Approximately one in four calls from the general public requesting help for children falls outside of our jurisdiction. The majority of callers are frustrated by a system that distinguishes between children in the care of government and those who are not. They believe that the office should advocate for all children. In the eyes of most, children are children . . . and they should be helped.

Many children across Manitoba obtained services provided by government departments. In 1999-2000, according to Manitoba Justice there were 3,764 children serving community-based sentences (1,922 on probation, 1,842 involved with Alternative Measures programs). On any given day there are over 300 young Manitobans detained in youth correctional facilities. According to the Manitoba Adolescent Treatment Center, in the 1999-2000 fiscal year there were between 3,000 to 4,000 children who received mental health services. There were 5,150 children with disabilities who received some form of government-assisted services.[1] These numbers do not include First Nations children with disabilities who are the responsibility of the federal government.

These children and youth are often highly vulnerable. Many are at crisis points in their lives, yet they have no one to advocate for them.

Article 27 of *The UN Convention on the Rights of the Child* notes that *"State Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development."* Therefore Manitoba's ability to live up to this commitment at the highest possible standard is closely linked to the availability and quality of a broad range of government services that fall within the jurisdiction of many departments and agencies.

While our office can refer matters involving children and youth to government departments and agencies under the current system, we have no authority to review the performance of government in meeting the needs of those whom we refer. These departments are not compelled to provide us with information on cases that are referred through our office. We therefore have no means by which to measure how well departments have served these children and youth individually and collectively. We also have no means to collect and analyze data

[1] Department of Family Services and Housing-Children's Special Services Branch.

from these departments to offer a coordinated and comprehensive evaluation of how well services meet the needs of young Manitobans.

Empowering the Office of the Children's Advocate to advocate for children and youth receiving services from all provincial government departments and agencies would make the process simpler for children, youth, families and communities across Manitoba, because they would have one central place to call for help, advice and support in regards to children and their issues. Having an open file in the Office of the Children's Advocate would also help to ensure greater accountability across government. It would provide a process where the rights and needs of a child or groups of children are not lost or forgotten in jurisdictional shuffles between departments. A broadened mandate would give our office the opportunity to identify ways in which the entire system could unite to provide improved services to children in Manitoba.

Currently, the scope of the Office of the Children's Advocate is defined by the Child and Family Services Act. Expanding the mandate of the OCA to provide advocacy services to Manitoba children affected by all provincial departments and agencies would require that legislation be written to create a new and separate Children's Advocate Act. An expanded mandate would also require additional resources that would allow the Children's Advocate to carry out these duties in an efficient and effective manner.

The Children's Advocate recommends that:

A separate Children's Advocate Act be created that would expand the mandate of the Office of the Children's Advocate to include all Manitoba children who are affected by all provincial government departments and agencies.

The Children's Advocate further recommends that:

Additional resources be directed to the Office of the Children's Advocate to ensure that the duties associated with the expansion of this mandate can be carried out in an efficient and effective manner.

How Does Manitoba's Experience Fit into the National Perspective?

This question is best answered by looking at the findings presented in *The UN Convention on the Rights of the Child How Does Canada Measure Up?* Portions of the report are reprinted here with the kind permission of the Canadian Coalition For the Rights of Children, a group representing 34 national and international organizations concerned about the rights of children and youth. Their report was submitted to the United Nations in 1999. It is based on a year of research and consultation across Canada on education, fundamental freedoms, abuse and neglect, refugee children and Canada's international obligations. The coalition concluded that Canada meets most of its obligations under *The UN Convention on the Rights of the Child.* However they found numerous areas where children's rights are being violated and where further action is required.

The report states that Canadian legislation rarely recognizes children so the freedoms they enjoy are largely determined by the adults in their lives. A child's rights will be determined by where he or she lives as programs and services vary widely between provinces and territories. Child welfare resources are fragmented, uncoordinated and unevenly allocated between regions and jurisdictions. Disputes over jurisdictions make things even more complicated for First Nations children living on reserves. Budget cuts have taken a toll on education as well as child welfare services in some provinces. The report cites growing caseloads, chronic waiting lists and worker burnout. Many families of children with disabilities need improved supports.

There is not enough research and data information collected on children and young people. For example, there are no national statistics on child abuse and neglect in Canada. According to the report, Canada has had little success in reducing child poverty rates. Close to 20 percent of all children in Canada live in low-income families. Some children are particularly vulnerable.

Aboriginal children have a disability rate that is more than twice the national average. They are at greater risk of school failure than other Canadian children. A disproportionate number of Aboriginal children are victims of abuse and neglect in comparison to non-Aboriginal children. The suicide rate among Aboriginal youth is about five times the national rate. Many aboriginal children live in poverty.

An estimate 535,000 children and youth under age 20 have some form of disability. **Children with disabilities** have varying opportunities to live "full lives". The supports and services they need are not considered an entitlement but a privilege. Many families of children with disabilities do not receive adequate assistance. Early identification and intervention services are not universally available and the right to appropriate education in the most enabling environment is not guaranteed.

Abused and neglected children continue to fall through the cracks in our child welfare systems. Inquests and inquiries into the deaths of children who were killed by their parents speak of inadequate risk assessments, insufficient training for social workers, a lack of service co-ordination and information sharing, a shortage of placement facilities, failed foster placements, a crisis orientation, and a lack of permanency planning for children who are in the care of the state.

Child refugees who arrive in Canada can be detained and there are no standards governing detentions. The refugee determination system is slow and the long wait unduly prolongs uncertainty in the lives of children and their families. The interests of children are not taken into account in decisions to deport their parents.

The report concluded that Canada needs to develop a comprehensive strategy to increase awareness of children's rights and to galvanize the energy and resources to ensure these rights. Many of the issues are complex, requiring a broad community response.

The Canadian Council of Provincial Children's Advocates

Manitoba is one of seven Canadian provinces to have an advocate for children. The other provinces are British Columbia, Alberta, Saskatchewan, Ontario, Quebec and Nova Scotia. In 1998, The Canadian Council of Provincial Children's Advocates was formed. Though having varying mandates, the seven provincial advocates are united in striving to ensure that all children are treated equally, with tolerance, dignity and respect within our communities and in government practice, policy and legislation. The ideals proclaimed in the *1991 UN Convention on the Rights of the Child* serve as an important cornerstone to the activities, ideas and principles adhered to and promoted by the member advocates.

While provincial governments administer many of the programs affecting children it is important to note the federal government also plays a large role in determining the welfare of Canada's children. It, too, must be held accountable for decisions that affect young Canadians. The Council provides an opportunity to focus attention on issues that transcend individual provincial borders and jurisdictions, affecting the outlook for all Canadian children. The Council provides a national voice for children and children's advocacy. Currently the Council is focusing on the following initiatives.

- corporal punishment and the repeal of Section 43 of the Criminal Code
- the proposed legislative amendments to the Young Offenders Act
- public education and awareness of the *UN Convention on the Rights of the Child*
- permanency planning for children living in the child welfare system and
- supporting the creation of a Canadian Children's Commissioner.*

* For additional information regarding the creation of a Canadian Children's Commissioner, please contact Senator Landon Pearson.

The 1999-2000 Fiscal Year Budget for The Office of the Children's Advocate

Expenditures	$(000)	FTE
Total Salaries and Employee Benefits	273.6	7
Total Other Expenses	182.8	

A few final words of advice that could make a huge difference in the quality of life for children-in-care from the Children's Advocate of Manitoba . . .

Our experiences this year have shown that children often can, and should be given a stronger voice in setting out plans for their own care. Their ideas are most often reasonable and achievable. They can, and do, make a positive contribution to improving the system, one case at a time. Overall, their quality of life in care would be vastly improved if only people would listen, and act upon, what these young Manitobans are saying.

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